Calendar No. 1725

84TH CONGRESS, 2d Session | SENATE | REPORT No. 1700

SALE OF LAND TO WALL, S. DAK.

MARCH 22 (legislative day, MARCH 19), 1956.—Ordered to be printed

Mr. MUNDT, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany S. 2246]

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 2246) to authorize the sale of certain lands to the city of Wall, S. Dak., having considered the same, report thereon with a recommendation that it do pass with amendments.

This bill would direct the Secretary of Agriculture to sell the interest of the United States in a 39-acre tract for its fair market value to the city of Wall, S. Dak.

The committee amendments simply correct the legal description. The report of the Department of Agriculture further explaining the bill is attached.

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., July 28, 1955.

Hon. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry,
United States Senate, Washington, D. C.

DEAR SENATOR ELLENDER: This is in reply to your request of June 16 for a report on S. 2246, a bill to authorize the sale of certain lands to the city of Wall, S. Dak.

We have no objection to the enactment of this bill.

This bill would direct the Secretary of Agriculture to convey to the city of Wall, S. Dak., upon payment of fair market value, as determined by the Secretary, the interest of the United States in a 39-acre tract of title III, Bankhead-Jones, land in Pennington County, S. Dak., less a Forest Service administrative site and rights-of-way for a State highway.

We do not object to this bill for the following reasons:

1. The area to be sold is not needed by the Department in the administration of the land utilization project, of which it is a part.

It is unlikely that any other public agency would have need for it for public purposes.

2. The tract is within the city limits of the town of Wall and is needed for business sites and residential lots for the orderly development of the town. We understand that the town plans to subdivide and sell lots under appropriate restrictions.

3. S. 1237, proposed to President of the Senate by this Department in its letter of February 21, 1955, is a general bill before the Agriculture and Forestry Committee which, if enacted, would enable the Department to meet the objectives of S. 2246. If this bill were enacted, there would be no need for this special bill, but the Department is on record as sympathetic to this type of legislation.

The following perfecting amendments are proposed:

1. The tract number (p. 1, line 10) should be 5299 instead of 5209.

2. On page 2, insert the words "the" and "public" near the end of line 10, the following:

> said lot 3, 150 feet to the east boundary line of block A as platted and according to plat on file, thence south 0 degrees 1 minute west 47.35 feet to the southeast corner of said block A thence west 483.06 feet to the east boundary line of the public highway as now established, thence on a curve southwesterly 1,600 feet along the southeasterly boundary line of said

The Bureau of the Budget advises that, from the standpoint of the program of the President, there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE, *Acting Secretary.*

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Calendar No. 1726

84TH CONGRESS, 2d Session | SENATE | REPORT No. 1701

VIOLATIONS OF THE FEDERAL SEED ACT

MARCH 22 (legislative day, MARCH 19), 1956.—Ordered to be printed

Mr. MUNDT, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany S. 1688]

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 1688) to amend section 406 of the Federal Seed Act, having considered the same, report thereon with a recommendation that it do pass with amendments.

This bill would remove the criminal penalty for inadvertent violation of the Federal Seed Act where no criminal intent is present, and provides a civil penalty for such violation. Under existing law shippers of seed may be subject to criminal penalty and the stigma attached thereto if they fail to make a proper analysis and certification of the seed shipped. Your committee feels that this is unnecessarily strict. The language of the bill was worked out by your committee with the seed trade and the Department of Agriculture, and is satisfactory to all.

Sections 2, 3, and 4 of the bill, which would be added by committee amendments, contain technical amendments required as a result of the substantive changes made by the first section of the bill.

The committee amendments are fully explained by the attached letters from the Department of Agriculture.

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., June 16, 1955.

Hon. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry,
United States Senate.

DEAR SENATOR ELLENDER: This is in reply to your letter of April 15 requesting a report on S. 1688, a bill to amend section 406 of the Federal Seed Act.

This Department recommends that the bill be passed, provided it is changed as suggested below.

The effect of the proposed amendment is twofold. The insertion of the word "knowingly" in the proposed subsection 406 (a) would make it necessary to prove a measure of intent to establish a violation

of the act, and the new subsection 406 (b) authorizes a civil action for the assessment of a penalty, in which case it would not be necessary to establish intent.

The necessity to prove that a violation was committed knowingly under the Importation of Adulterated Seeds Act of 1912, as amended, was one of the principal causes for the repeal of this act and its supersedure by the Federal Seed Act in 1939. The word "knowingly" was deliberately omitted from the Federal Seed Act. However, prosecutions are not recommended under this act unless the Department is believed to have evidence of knowledge, gross negligence, or disregard of the requirements of the act, or the regulations thereunder. The Department believes that criminal action should be available in these three classes of cases and suggests that if section 406 is to be amended to require some element of knowledge or intent for criminal prosecutions, the amendment should specifically provide for prosecution in such classes of cases. It is suggested that in that event, the provisions of section 406 be amended to read as follows:

> SEC. 406. (a) Any person who knowingly, or as a result of gross negligence, or as a result of disregard of the requirements of this Act or the rules and regulations made and promulgated thereunder, violates any provision of this Act or such rules and regulations shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than $1,000, for the first offense, and upon conviction for each subsequent offense not more than $2,000.

The Department does not object to the proposed new subsection 406 (b) providing for civil penalties, although it is not known how effective a deterrent to violations the civil penalties may prove to be.

It is recommended that, if proposed subsection 406 (b) is enacted into law, incidental changes be made in sections 204 and 412 of the act so that these sections would read, respectively, as follows:

> SEC. 204. The use of a disclaimer or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution or other proceeding brought under the provisions of this Act, or the rules and regulations made and promulgated thereunder.
>
> SEC. 412. The institution of any one of the proceedings provided for in sections 405, 406, 409, 410, and 411 shall not bar institution of any of the others, except that action shall not be instituted under both subsections 406 (a) and (b) for the same cause of action. Nothing in this Act shall be construed as requiring the Secretary of Agriculture to recommend prosecution, or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this Act or the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning.

It is recommended that a savings clause be included in the bill providing that the amendments made by it would apply only with respect to violations occurring after the date of enactment, so as to

avoid questions concerning prosecutions of offenses previously committed.

These amendments, if approved, are not expected to increase the cost of administration of the Federal Seed Act.

The Department is considering recommending the enactment of various other amendments of the Federal Seed Act in a separate bill which it is anticipated will be sent to the Congress in the near future. That bill would make certain changes in section 204 not reflected in the foregoing proposal concerning that section.

In view of the subsequent request that this report be submitted today we are not awaiting advice from the Bureau of the Budget regarding the relationship of this proposed legislation to the program of the President.

Sincerely yours,

EARL L. BUTZ, *Acting Secretary.*

DEPARTMENT OF AGRICULTURE,
Washington, D. C., November 4, 1955.

Hon. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry,
United States Senate.

DEAR SENATOR ELLENDER: On June 16, 1955, this Department reported, at the request of your committee, on S. 1688, 84th Congress, a bill to amend section 406 of the Federal Seed Act (7 U. S. C. 1596).

The report suggested that certain changes be made in the bill. It subsequently developed that the proposed changes were not acceptable in some respects to the seed trade regulated by the act, and discussions were had with members and counsel of your committee and the seed trade in an effort to draft language that would be agreeable to all concerned.

On September 14, 1955, Mr. Harker Stanton, counsel for your committee, inquired whether this Department would object to a bill that would amend the present provisions of section 406 of the act to read as follows:

> (a) Any person who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this Act or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than $1,000, for the first offense, and upon conviction for each subsequent offense not more than $2,000.

We understand that proposed subsection 406 (b) of the act as set forth in S. 1688 would be retained in the bill and the amendments of sections 204 and 412 of the act and a savings clause as proposed in our report on S. 1688 would be included in the bill, Under such circumstances this Department would not object to the proposed subsection 406 (a) as set forth above.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

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CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL SEED ACT OF 1939, AS AMENDED

* * * * *

SEC. 204. The use of a disclaimer or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution[, or in any proceeding for confiscation of seeds,] *or other proceeding* brought under the provisions of this Act, or the rules and regulations made and promulgated thereunder.

* * * * *

SEC. 406. (*a*) Any person who [violates any provision of this Act or the rules and regulations made and promulgated thereunder] *knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of of the pertinent facts, violates any provision of this Act or the rules and regulations made and promulgated thereunder* shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than $1,000, for the first offense, and upon conviction for each subsequent offense not more than $2,000.

(*b*) *Any person who violates any provision of this Act or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less than $25 or more than $500, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.*

* * * * *

SEC. 412. The institution of any one of the proceedings provided for in sections 405, *406*, 409, 410, and 411, [or criminal prosecution under section 406] shall not bar institution of any of the others, *except that action shall not be instituted under both subsections 406 (a) and (b) for the same cause of action.* [However, nothing] *Nothing* in this Act shall be construed as requiring the Secretary of Agriculture to recommend prosecution [or institution of], *or institution of civil penalty proceedings,* libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this Act *or the rules and regulations made and promulgated thereunder* whenever he believes that the public interest will be adequately served by suitable written notice or warning.

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Calendar No. 1727

84TH CONGRESS, 2d Session | SENATE | REPORT No. 1702

LAND TITLE CLARIFICATION WITHIN STANISLAUS NATIONAL FOREST, CALIF.

MARCH 22 (legislative day, March 19), 1956.—Ordered to be printed

Mr. ELLENDER, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany H. R. 374]

The Committee on Agriculture and Forestry, to whom was referred the bill (H. R. 374) to authorize the adjustment and clarification of ownership to certain lands within the Stanislaus National Forest, Tuolumne County, Calif., and for other purposes, having considered the same, report thereon with a recommendation that it do pass without amendment.

This bill authorizes an exchange of deeds to correct an error, as is fully explained in the attached report of the House Committee on Agriculture.

STATEMENT

The purpose of this bill is to clarify the title of the United States to a tract of about 440 acres of land in Stanislaus National Forest, Calif., and also of an adjoining tract of equal size adjacent to the national forest in private ownership. By a mistake in the land grant from the State of California, the deed to the private property describes the tract within the national forest, while the deed to the national forest property describes the adjacent private tract. No exchange of possession or use is involved. The Forest Service has been using and administering the tract within the national forest, while the private owners have been using the tract outside the forest. This bill will merely rectify and clarify this mistake in the land description.

Following is a letter from the Department of Agriculture recommending enactment of the bill and describing in more detail the circumstances giving rise to the need for this legislation.

JUNE 10, 1955.

Hon. HAROLD D. COOLEY,
Chairman, Committee on Agriculture,
House of Representatives

DEAR CONGRESSMAN COOLEY: This is in response to your request of May 26 for a report on H. R. 374, a bill to authorize the adjustment and clarification of ownership to certain lands within the Stanislaus National Forest, Tuolumne County, Calif., and for other purposes.

We favor enactment of this bill.

H. R. 374 would authorize the Secretary of Agriculture to accept a conveyance to about 440 acres of land in the Stanislaus National Forest, Calif., and to convey an adjoining 440 acres to the grantors of the first described tract.

The tract of land which would be conveyed to the United States is described in a patent issued by the State of California in 1898, based upon a survey plat which showed the lands as swampland. This plat was filed and later rejected on the basis that the survey was fraudulent. A consent decree in a Federal court in 1916 recognized the title of the patentee to the land described in the State patent. Subsequent surveys of the sections involved, however, showed that the lands described in the State patent do not cover the tracts claimed and used by the State's patentee and successors as these are located on the ground. Instead the descriptions cover national-forest lands adjoining on the north. The land which the holders of the State patent intended to obtain and which has been used by them is covered by the second description in the bill. This is the land that the Secretary of Agriculture would be authorized to quitclaim to the claimants.

The lands intended to be covered by the State patent and which have been used by claimants under the patent and court decree include a mountain meadow, locally known as Bell Meadows, useful in summer grazing of livestock. This property has been improved as a headquarters for livestock grazing by corrals, fencing, and other facilities. This use has extended over a period of 50 years and the claim to the tract has been recognized since the 1916 court decree. The national forest land described in the State patent is timberland and is unoccupied.

The authority contained in H. R. 374 will enable the private owners to obtain record title to the lands which they and their predecessors have used for many years and to which their claim has been recognized in the administration of the national forest. It will also permit clearing from the records any adverse effect which the State patent may have on the Government's title to the national forest land.

To accomplish this exchange, legislation is needed. It would involve neither added expenditures nor savings to the Government.

The Bureau of the Budget advises that from the standpoint of the program of the President there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

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Calendar No. 1728

84TH CONGRESS, 2d Session | SENATE | REPORT No. 1703

COOPERATIVE FOREST SERVICE RESEARCH

MARCH 22 (legislative day, MARCH 19), 1956.—Ordered to be printed

Mr. ELLENDER, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany H. R. 1855]

The Committee on Agriculture and Forestry, to whom was referred the bill (H. R. 1855) to amend the act approved April 24, 1950, entitled "An act to facilitate and simplify the work of the Forest Service, and for other purposes," having considered the same, report thereon with a recommendation that it do pass without amendment.

This bill provides permanent authorization for cooperative research between the Forest Service and public and private agencies and individuals in forest, range, and watershed management. Authority for such cooperation has heretofore been carried in annual appropriation acts. The authority given by the bill is intended to apply to all forms of research which the Forest Service is authorized to perform and includes research into forest economics and products as well as other matters covered by the term "forest, range, and watershed management research".

STATEMENT

The purpose of this bill is to enact into permanent legislation authority which has been contained in the most recent several appropriation acts for the Department of Agriculture and which has been exercised, pursuant to those acts, by the Forest Service.

The bill has been amended in accordance with suggestions of the Department of Agriculture and, as amended, consists essentially of authority for the Secretary of Agriculture to advance Federal funds in the furtherance of cooperative research projects. A more detailed explanation of the bill and the Department's recommendation for approval of the measure, is included in the following letter from the Acting Secretary of Agriculture.

JUNE 10, 1955.

Hon. HAROLD D. COOLEY,
Chairman, Committee on Agriculture,
House of Representatives.

DEAR CONGRESSMAN COOLEY: This is in reply to your request of March 21, 1955, for a report on H. R. 1855, a bill to amend the act approved April 24, 1950, entitled "An act to facilitate and simplify the work of the Forest Service, and for other purposes."

We favor the enactment of this bill with amendments suggested below.

This bill would authorize the Secretary of Agriculture to (1) require, whenever it is determined to be in the public interest, that satisfactory cooperative arrangements be made before any reserach is undertaken by the Forest Service; (2) establish a Forest and Range Research National Advisory Committee; (3) advance funds to cooperators when cooperative research work will be stimulated or facilitated by so doing; and (4) pay from Forest Service research activities funds the travel and subsistence expenses of the members of the Forest and Range Research National Advisory Committee in connection with their attendance at meetings for the purpose of performing their duties.

An identical bill was recommended by the Department in 1951 as a result of a special study made by the Forest Service in response to a request by the House Agriculture Appropriations Subcommittee. Since then the Department has established under authority of the Research and Marketing Act a Forest Research National Advisory Committee. It pays members' expenses under the authority of section 509 of the Department of Agriculture Appropriation Act for 1955. If the general authority contained in section 509 were deleted, the Department would rely, as it did when the research appropriation was made to different agencies, upon the authority in the Research and Marketing Act. Therefore, subsections (a) (2) and (b) of section 20 are unnecessary. Subsection (a) (1) of section 20 is also considered unnecessary in view of the general authority of the Secretary.

Authority for section 20 (a) (3) has appeared in the Agriculture Appropriations Acts for fiscal years 1953, 1954, and 1955 and in the House appropriation bill for fiscal year 1956. Enactment of this subsection of H. R. 1855 would provide permanent legislation and eliminate the need for this provision in the annual appropriations acts.

The authority to advance Federal funds for cooperative aids to States, and other public and private agencies, organizations, institutions, and individuals which would be made possible under section 20 (a) (3) of H. R. 1855 would be used to stimulate and make possible further expenditure and more effective research by these agencies on problems of mutual interest. The Department advocates advancing funds for limited use for the purpose of encouraging non-Federal contributions on cooperative projects in specialized fields of research for which a non-Federal agency may have outstanding facilities or skills.

Because adequate legislative authority is already available, the following amendments are recommended:

On page 1, line 5, delete "(a)".

On page 2, line 3, delete the colon.

On page 2, delete lines 4 to 20, inclusive.

On page 2, line 21, delete "(3)" and insert "and" before "when".

On page 2, line 24, insert at the end thereof a quotation mark for the purpose of completing the quote.

On page 2, delete line 25.

On page 3, delete lines 1 to 5 inclusive.

The Bureau of the Budget advises that from the standpoint of the program of the President there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE, *Acting Secretary.*

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF APRIL 24, 1950

AN ACT To facilitate and simplify the work of the Forest Service, and for other purposes

* * * * *

SEC. 20. For the purpose of fostering and stimulating participation with the Forest Service in forest, range, and watershed management research through investigations, experiments, tests, or such other means as he may deem advisable, and in order to aid in obtaining the fullest cooperation from States and other public and private agencies, organizations, institutions, and individuals, in effectuating such research the Secretary of Agriculture is authorized in accordance with such regulations as he may issue and when in his judgment such cooperative work will be stimulated or facilitated to make funds available to the cooperators without regard to the provisions of section 3648, Revised Statutes, prohibiting advances of public moneys.

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Calendar No. 1729

84TH CONGRESS, 2d Session | SENATE | REPORT No. 1704

ACP WATER CONSERVATION PRACTICES

MARCH 22 (legislative day, MARCH 19), 1956.—Ordered to be printed

Mr. ELLENDER, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany H. R. 7236]

The Committee on Agriculture and Forestry, to whom was referred the bill (H. R. 7236) to amend section 8 (b) of the Soil Conservation and Domestic Allotment Act with respect to water-conservation practices, having considered the same, report thereon with a recommendation that it do pass without amendment.

This bill would permit payments to be made under the Soil Conservation and Domestic Allotment Act for water-conservation practices in the humid areas as well as the arid and semiarid areas. The report of the House Committee on Agriculture is attached.

[H. Rept. No. 1199, 84th Cong., 1st sess.]

The Committee on Agriculture to whom was referred the bill H. R. 7236 to amend section 8 (b) of the Soil Conservation and Domestic Allotment Act with respect to water conservation practices, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

Section 8 of the Soil Conservation and Domestic Allotment Act provides the authority and the legislative direction for assistance to farmers in establishing and carrying out conservation practices—what is now known as the agricultural conservation program. Subsection (b) of the section enumerates the general principles of the Government's aid to farmers, and includes among several factors to be considered—

"(1) their treatment or use of their lands, or a part thereof, for soil restoration, soil conservation, or the prevention of erosion; (2) changes in the use of their lands."

The subsection further provides:

"In arid or semiarid sections, (1) and (2) above shall be construed to cover water conservation and the beneficial use of water on individual farms, including measures to prevent runoff, the building of check dams and ponds, and providing facilities for applying water to the land."

At the time the Soil Conservation and Domestic Allotment Act was adopted by Congress, water problems and the desirability of water conservation measures were presumed to be limited to the arid and semiarid States lying generally west of the 100th meridian. In recent years it has become increasingly obvious that water conservation is the concern not only of the Western States but of the whole United States.

This bill will strike out the words "in arid or semiarid sections" from the sentence of the law quoted above. It will mean that in establishing the national standards for the ACP program, the Secretary of Agriculture will have the authority, if he chooses to exercise it, of approving water conservation measures as ACP practices in any State. The legislation is purely permissive and will not require the Secretary to approve water conservation measures as part of the ACP program in any State where he does not deem it desirable to do so.

The bill herewith reported (H. R. 7236) was introduced at the direction of the committee following hearings on a bill (H. R. 6062) by the same author. H. R. 6062 would have repealed the limitation of the above sentence to arid and semiarid sections but would also have required the Secretary to approve certain specific wet-lands practices as ACP practices in all States. In its report on H. R. 6062 the Department of Agriculture indicated its opposition to designation of the specific wet-lands practices but stated that it did not object to amending the sentence to remove the applicability only to arid and semiarid sections. The bill reported complies with the Department's recommendation.

Following is the letter from the Department of Agriculture on H. R. 6062:

DEPARTMENT OF AGRICULTURE,
Washington, June 7, 1955.

Hon. HAROLD D. COOLEY,
Chairman, Committee on Agriculture,
House of Representatives.

DEAR CONGRESSMAN COOLEY: This is in reply to your request on May 27, 1955, for a report on H. R. 6062, a bill "to amend the Soil Conservation and Domestic Allotment Act." This bill would amend the second sentence of section 8 (b) of the Soil Conservation and Domestic Allotment Act, as amended, which presently is as follows: "In arid and semiarid sections (1) and (2) above shall be construed to cover water conservation and the beneficial use of water on individual farms, including measures to prevent runoff, the building of check dams and ponds, and providing facilities for applying water to the land." The effect of the amendment

would be to eliminate the reference to "arid and semiarid sections" and to add wording to specifically authorize the fencing of wet lands and level ditching.

This Department is opposed to that portion of the bill relating specifically to "fencing of wet lands" and "level ditching." Elimination of the reference to "arid and semiarid sections" would not be objectionable.

Under present provisions of the Soil Conservation and Domestic Allotment Act and the applicable appropriation acts in recent years, which have authorized annual agricultural-conservation programs, this Department has considered that ample authority exists for providing assistance to agricultural producers throughout the Nation under the agricultural-conservation program for the kinds of measures described in the proposed amendment, provided they meet the test of a "soil-building" or "soil- and water-conserving" measure for agricultural lands. It should be pointed out that the funds provided by Congress for annual programs are limited to "programs of soil-building practices and soil- and water-conserving practices," and the new wording proposed with respect to the fencing of wet lands and level ditching would broaden the scope of authority for the ACP, only if (1) those measures are for purposes other than soil or water conservation, and (2) changes likewise are made to authorize them in the annual appropriations.

It appears that the purpose of the amendment is primarily for the benefit of wildlife resources. Present policies under which the ACP is operated provide that in certain practices, such as drainage where the activity might have a detrimental effect on wildlife resources, that consideration be given to the protection and maintenance of wildlife, but it is our belief that any benefits to wildlife resulting from the application of approved soil- and water-conservation practices under the ACP, must be in addition to direct and primary conservation benefits to agricultural lands.

Since the committee is to consider this bill on June 8, we are submitting this report without awaiting the advice of the Budget Bureau as to relationship of the proposed legislation to the program of the President.

Sincerely yours,

J. A. McCONNELL,
Acting Secretary.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT, AS AMENDED

* * * * * * *

SEC. 8. * * *:

(b) Subject to the limitations provided in subsection (a) of this section, the Secretary shall have power to carry out the purposes specified in clauses (1), (2), (3), (4), and (5) of section 7 (a) by making payments or grants of other aid to agricultural producers, including tenants and sharecroppers, in amounts determined by the Secretary to be fair and reasonable in connection with the effectuation of such purposes during the year with respect to which such payments or grants are made, and measured by (1) their treatment or use of their land, or a part thereof, for soil restoration, soil conservation, or the prevention of erosion; (2) changes in the use of their land; (3) their equitable share, as determined by the Secretary, of the normal national production of any commodity or commodities required for domestic consumption; or (4) their equitable share, as determined by the Secretary, of the national production of any commodity or commodities required for domestic consumption and exports adjusted to reflect the extent to which their utilization of cropland on the farm conforms to farming practices which the Secretary determines will best effectuate the purposes specified in section 7 (a); or (5) any combination of the above. [In arid or semiarid sections,] *Clauses* (1) and (2) above shall be construed to cover water conservation and the beneficial use of water on individual farms, including measures to prevent runoff, the building of check dams and ponds, and providing facilities for applying water to the land.

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Calendar No. 1730

84TH CONGRESS, 2d Session | SENATE | REPORT No. 1705

AMENDING SECTION 1237 OF THE INTERNAL REVENUE CODE OF 1954

MARCH 22 (legislative day, MARCH 19) 1956.—Ordered to be printed

Mr. LONG, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 6712]

The Committee on Finance, to whom was referred the bill (H. R. 6712) to amend section 1237 of the Internal Revenue Code of 1954, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 7, strike out "business" and insert "business and only in the case of property described in the last sentence of subsection (b) (3)".

Page 1, strike out subsection (a) of section 2 and insert:

(a) In subparagraph (A) strike out "water or sewer facilities" and insert: "water, sewer, or drainage facilities".

PURPOSE OF BILL

This bill amends section 1237 of the Internal Revenue Code of 1954 relating to real property subdivided for sale. Under this bill the capital-gains treatment generally granted by section 1237 is extended to certain corporations and other taxpayers in the case of land acquired directly (or indirectly in the manner provided) through foreclosure and held for more than 10 years although the taxpayer may have installed water, sewer, or drainage facilities or roads.

GENERAL STATEMENT

Prior to the enactment of the 1954 Code when a taxpayer subdivided real property for sale, he was likely to be considered as holding the property for sale to customers in the ordinary course of a trade or business and subjected to ordinary income treatment. Section 1237 provided relief in a limited area by providing special rules for the taxation of gain from the sale of real property coming within

the scope of the section. The section provides that the taxpayer is not to be considered as holding property primarily for sale to customers in the ordinary course of trade or business "solely" because he subdivided the tract for purposes of sale or because of any activity incident to the subdivision or sale if the property came within the scope of the section. If the taxpayer could be considered a dealer in real property because of his transactions involving other property, the property would still be considered as held for sale to customers in the ordinary course of trade or business. However, a determination that a taxpayer is a dealer in real estate must be predicated upon all the facts and circumstances surrounding the transaction or transactions in question and the fact that a corporate taxpayer's charter permits or prohibits trading in real estate would not of itself be controlling. For purposes of section 1237, property will not be regarded as held for sale to customers solely because of real-estate development and sales activity, relating to the tract, that is within the scope of section 1237. This bill enlarges the scope of section 1237 primarily with regard to property that is acquired through foreclosure.

EXPLANATION OF BILL

This bill allows certain property to come within the scope of section 1237 although the taxpayer has made improvements on the property. Under section 1237 (a) (2) of present law, property is not to qualify if the taxpayer (as defined in sec. 1237 (a)) has made a substantial improvement on the tract of land that substantially enhances the value of the lot or parcel sold. The subparagraphs of subsection (b) (3) of present law provide that no improvement is to be deemed a substantial improvement for purposes of subsection (a) if the lot or parcel is held by the taxpayer for a period of 10 years and the taxpayer satisfies certain conditions. Subparagraph (A) provides that the improvement must constitute the building or installation of water or sewer facilities or roads. Subparagraph (B) provides that it must be shown to the satisfaction of the Secretary or his delegate that the lot or parcel, the value of which was substantially enhanced by such improvement, would not have been marketable at the prevailing local price for similar building sites without such improvement. Subparagraph (C) provides that the taxpayer must elect in accordance with regulations prescribed by the Secretary or his delegate to make no adjustment to the lot or parcel, or of any other property owned by the taxpayer, on account of the expenditures of such improvements.

This bill amends subsection (b) (3) to provide that the taxpayer may install "drainage facilities" as well as those listed in the present paragraph (3) (A). The bill also provides that in determining whether or not an improvement is to be considered a substantial improvement, the requirements of subparagraphs (B) and (C) described above are not to apply in the case of property acquired through the foreclosure of certain liens and property adjacent to such property if 80 percent of the real property owned by the taxpayer is property acquired through foreclosure as described in paragraph (3). The lien must have secured the payment of an indebtedness to the taxpayer or (in the case of a corporation) to a creditor who has transferred the foreclosure bid to the taxpayer in exchange for all of its stock and other consideration.

Under the 1954 Code, section 1237 is limited to real property "in the hands of a taxpayer other than a corporation." This bill extends the scope of the section to include corporations in the case of land acquired through foreclosure and adjacent property (as described in the last sentence of subsection (b) (3)).

Your committee has made two amendments in the bill as passed by the House of Representatives. Under the House bill, the benefits of section 1237 would have been extended to corporations on the same basis as individuals in all cases if no shareholder of the corporation was a real-estate dealer. It was pointed out that this provision would be difficult to administer, and your committee has amended the bill to permit corporations to qualify only if the corporation is holding property originally acquired through foreclosure of a lien thereon. This would include a corporation to which was transferred the foreclosure bid in exchange for all of its stock and other consideration or a corporation was itself the creditor.

The second amendment made by your committee removes a reference in the bill to "other public utilities" and substitutes "drainage facilities." This will narrow the scope of the House bill by limiting the types of improvements that the taxpayer may make and remain within the scope of section 1237.

This bill is applicable to all taxable years beginning after December 31, 1954.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

SECTION 1237 OF THE INTERNAL REVENUE CODE OF 1954

SEC. 1237. REAL PROPERTY SUBDIVIDED FOR SALE.

(a) GENERAL.—Any lot or parcel which is part of a tract of real property in the hands of a taxpayer [other than a corporation] *(including corporations only if no shareholder directly or indirectly holds real property for sale to customers in the ordinary course of trade or business and only in the case of property described in the last sentence of subsection (b) (3))* shall not be deemed to be held primarily for sale to customers in the ordinary course of trade or business at the time of sale solely because of the taxpayer having subdivided such tract for purposes of sale or because of any activity incident to such subdivision or sale, if—

(1) such tract, or any lot or parcel thereof, had not previously been held by such taxpayer primarily for sale to customers in the ordinary course of trade or business (unless such tract at such previous time would have been covered by this section) or, in the same taxable year in which the sale occurs, such taxpayer does not so hold any other real property; and

(2) no substantial improvement that substantially enhances the value of the lot or parcel sold is made by the taxpayer on such tract while held by the taxpayer

or is made pursuant to a contract of sale entered into between the taxpayer and the buyer. For purposes of this paragraph, an improvement shall be deemed to be made by the taxpayer if such improvement was made by—

(A) the taxpayer or members of his family (as defined in section 267 (c) (4)), by a corporation controlled by the taxpayer, or by a partnership which included the taxpayer as a partner; or

(B) a lessee, but only if the improvement constitutes income to the taxpayer; or

(C) Federal, State, or local government, or political subdivision thereof, but only if the improvement constitutes an addition to basis for the taxpayer; and

(3) such lot or parcel, except in the case of real property acquired by inheritance or devise, is held by the taxpayer for a period of 5 years.

(b) SPECIAL RULES FOR APPLICATION OF SECTION.—

(1) GAINS.—If more than 5 lots or parcels contained in the same tract of real property are sold or exchanged, gain from any sale or exchange (which occurs in or after the taxable year in which the sixth lot or parcel is sold or exchanged) of any lot or parcel which comes within the provisions of paragraphs (1), (2), and (3) of subsection (a) of this section shall be deemed to be gain from the sale of property held primarily for sale to customers in the ordinary course of the trade or business to the extent of 5 percent of the selling price.

(2) EXPENDITURES OF SALE.—For the purpose of computing gain under paragraph (1) of this subsection, expenditures incurred in connection with the sale or exchange of any lot or parcel shall neither be allowed as a deduction in computing taxable income, nor treated as reducing the amount realized on such sale or exchange; but so much of such expenditures as does not exceed the portion of gain deemed under paragraph (1) of this subsection to be gain from the sale of property held primarily for sale to customers in the ordinary course of trade or business shall be so allowed as a deduction, and the remainder, if any, shall be treated as reducing the amount realized on such sale or exchange.

(3) NECESSARY IMPROVEMENTS.—No improvement shall be deemed a substantial improvement for purposes of subsection (a) if the lot or parcel is held by the taxpayer for a period of 10 years and if—

(A) such improvement is the building or installation of [water or sewer facilities] *water, sewer, or drainage facilities* or roads (if such improvement would except for this paragraph constitute a substantial improvement);

(B) it is shown to the satisfaction of the Secretary or his delegate that the lot or parcel, the value of which was substantially enhanced by such improve-

ment, would not have been marketable at the prevailing local price for similar building sites without such improvement; and

(C) the taxpayer elects, in accordance with regulations prescribed by the Secretary or his delegate, to make no adjustment to basis of the lot or parcel, or of any other property owned by the taxpayer, on account of the expenditures for such improvements. Such election shall not make any item deductible which would not otherwise be deductible.

The requirements of subparagraphs (B) and (C) shall not apply in the case of property acquired through the foreclosure of a lien thereon which secured the payment of an indebtedness to the taxpayer or (in the case of a corporation) to a creditor who has transferred the foreclosure bid to the taxpayer in exchange for all of its stock and other consideration and in the case of property adjacent to such property if 80 percent of the real property owned by the taxpayer is property described in the first part of this sentence.

(c) TRACT DEFINED.—For purposes of this section, the term "tract of real property" means a single piece of real property, except that 2 or more pieces of real property shall be considered a tract if at any time they were contiguous in the hands of the taxpayer or if they would be contiguous except for the interposition of a road, street, railroad, stream, or similar property. If, following the sale or exchange of any lot or parcel from a tract of real property, no further sales or exchanges of any other lots or parcels from the remainder of such tract are made for a period of 5 years, such remainder shall be deemed a tract.

(d) EFFECTIVE DATE.—This section shall apply only with respect to sales of property occurring after December 31, 1953, except that, for purposes of subsection (c) (defining tract of real property) and for determining the number of sales under paragraph (1) of subsection (b), all sales of lots and parcels from any tract of real property during the period of 5 years before December 31, 1953, shall be taken into account, except as provided in subsection (c).

90002°—57 S. Rept., 84-2, vol. 2——24

Calendar No. 7131

84TH CONGRESS
2d Session

SENATE

REPORT
No. 1706

TRANSFER OF UNCLAIMED PAYMENTS ON UNITED STATES SAVINGS BONDS

MARCH 22 (Legislative day, MARCH 19), 1956.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany S. 3422]

The Committee on Finance, to whom was referred the bill (S. 3422) to authorize the Secretary of the Treasury to transfer certain amounts from unclaimed payments on United States savings bonds to the fund created for the payment of Government losses in shipment, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

GENERAL STATEMENT

This bill will authorize and direct the Secretary of the Treasury to transfer, not to exceed $500,000, from the account "Unclaimed partial payments on United States savings bonds" to the Government losses in shipment revolving fund.

The Government losses in shipment revolving fund was established on the books of the Treasury on July 8, 1937, in accordance with the provisions of the Government Losses in Shipment Act (5 U. S. C. 134–134h), whereby the Government assumed the risk on its shipments of valuables, including money, bullion, and securities. This act authorized an initial appropriation of $500,000 and annual appropriations of $200,000 for each of the fiscal years 1939 to 1948, inclusive, making a total of authorized appropriations of $2,500,000. Actual appropriations to the fund have amounted to only $802,000. The balance of the fund as of December 31, 1955, was $178,000. Additional appropriations will be required in the future unless other means of obtaining funds are provided.

By the act of April 12, 1943 (31 U. S. C. 757c (i)), the fund was made available for the replacement of any losses resulting from payments made in connection with the redemption of savings bonds. From October 1, 1955 to September 30, 1955, paying agents paid

1,269 million savings bonds aggregating $55,177 million. There were only 65,237 bonds aggregating $2,983,000 erroneously paid, in most cases, due to forgeries of the signatures of the owners of such bonds. Of this amount $2,136,000 has been recovered from owners, paying agents, forgers, and others. Of the remaining $847,000 the Government losses in shipment fund has been charged with $494,000 and the amount of $353,000 is in process of collection. Based on past experience, about 70 percent, or $247,000, of the amount in process of collection will be recovered, which would leave the remainder, or about $106,000, as a possible charge to the fund.

Funds in the account "Unclaimed partial payments on United States savings bonds" represent unclaimed partial payments on the purchase price of savings bonds made by employees of private corporations under the payroll savings plan. The Treasury agreed to accept these funds at the request of private corporations to enable the corporations to close these small accounts on their books. Since 1944 about $746,000 has been received for credit to this account, representing about 148,000 individual accounts. This is an average of about $5 for each account, and includes over 46,000 accounts of less than $1 aggregating over $17,000 which has been credited to miscellaneous receipts of the Treasury. To date claims paid from the fund have amounted to less than $29,000. In the last 5 years claims have amounted to less than $1,000 each year. There would remain a balance in this account of about $200,000, after the transfer requested by this proposed legislation, which is considered sufficient to meet all anticipated claims.

NECESSITY FOR LEGISLATION

As indicated, the balance in the Government losses in shipment revolving fund as of December 31, 1955 was $178,000. Since this fund was made available for the replacement of any losses in connection with redemption of savings bonds, it appears that there will now be $106,000 as a possible charge to the fund, leaving a balance in the fund of $72,000 Since there is on the account "Unclaimed partial payments on United States savings bonds" about $700,000, the Secretary of the Treasury desires authority to transfer $500,000 of this amount to the Government losses in shipment revolving fund, leaving in the account "Unclaimed partial payments on United States savings bonds" a balance of about $200,000, which is considered sufficient to meet all anticipated claims. This bill was requested by the Treasury Deaprtment.

The transfer of funds to the Government losses in shipment revolving fund from the account "Unclaimed partial payments on United States savings bonds" will make it unnecessary for the Treasury to request an approriation by the Congress to replenish the Government losses in shipment fund to offset the charges to that fund covering erroneously redeemed savings bonds.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, S. 3422, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman).

GOVERNMENT LOSSES IN SHIPMENT ACT (50 STAT. 479)

Section 2 of the Government losses in Shipment Act, approved July 8, 1937, (50 Stat. 479; 5 U. S. C. 134a)

SEC. 2. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $500,000 to be used, under the direction of the Secretary of the Treasury, for the replacement of valuables, or the value thereof, lost, destroyed, or damaged in the course of shipment effected pursuant to the regulations prescribed under section 1. There is hereby further authorized to be appropriated annually, beginning with the fiscal year 1939 and ending with the fiscal year 1948, inclusive, the sum of $200,000 for the said purposes, and from time to time such additional sums as may be necessary for the said purposes. There shall be in the Treasury of the United States a revolving fund, to be known as "the fund for the payment of Government losses in shipment" (hereinafter referred to as "the fund"), to be constituted of the said sum of $500,000 and the sums hereafter appropriated for the said purposes, together with all recoveries and repayments credited to the fund as hereinafter provided. There is hereby further authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $10,000, for expenditures under the direction of the Secretary of the Treasury, to be used for the payment of administrative expenses, including personal services, necessary to carry out the provisions of this Act for the fiscal year 1938. *The Secretary of the Treasury is authorized and directed to transfer on the books of the Treasury to the fund not to exceed $500,000 from the account entitled "Unclaimed Partial Payments on United States Savings Bonds".*

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Calendar No. 1732

84TH CONGRESS, 2d Session | SENATE | REPORT No. 1707

CONVEYANCE TO SOUTH CAROLINA SCHOOL DISTRICT

MARCH 22 (legislative day, MARCH 19), 1956.—Ordered to be printed

Mr. JOHNSTON of South Carolina, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany H. J. Res. 112]

The Committee on Agriculture and Forestry, to whom was referred the joint resolution (H. J. Res. 112) to release reversionary right to improvements on a 3-acre tract in Orangeburg County, S. C., having considered the same, report thereon with a recommendation that it do pass without amendment.

This joint resolution directs the Secretary of Agriculture to release a reversionary interest in certain improvements to the Orangeburg School District. The improvements consist of a community building and a water distribution system which were placed on the land by the United States under a contract with the Jamison School District, which has now been consolidated with the Orangeburg School District. Subsequent to their construction the Secretary conveyed the building and improvements to the Jamison School District for educational and other community purposes. That part of the land upon which the pumphouse and part of the underground pipeline is situated has been conveyed by the school district to a private individual and the rest of the property has been conveyed to a board of trustees for the benefit of the community. The Department's report points out that the community building is being used for community purposes and water from the water distribution system can apparently be used for community purposes so that it is questionable whether the United States could exercise its reversionary interest at this time. Of the reversionary interest held by the United States 61.4 percent is held in trust for the South Carolina Rural Rehabilitation Corporation and 38.6 percent is held by the United States in its own right. Conveyance under the resolution would require the written consent of the South Carolina Rural Rehabilitation Corporation. The report of the House Committee on Agriculture is attached.

[H. Rept. No. 1193, 84th Cong., 1st sess.]

The Committee on Agriculture, to whom was referred the joint resolution (H. J. Res. 112) to release reversionary right to improvements on a 3-acre tract in Orangeburg County, S. C., July 18, 1955, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

In 1946 the Department of Agriculture conveyed to the Jamison School District in Orangeburg County, S. C., a 3-acre tract of land, together with the improvements thereon, formerly the property of the South Carolina Rural Rehabilitation Corporation. The improvements consisted of a building and a water system. The land was conveyed for educational purposes and the United States retained a reversionary right in the improvements in the event that the property ceased to be used for educational purposes.

Since that time, the Jamison School District has been consolidated with the Orangeburg School District and the former school buildings will not be used for educational purposes but will be used as a community center. Officials of the Department of Agriculture estimate that the salvage value of the building and the water system is only about $50 if the United States were to exercise its reversionary right. This bill will extinguish that right and relinquish to the Orangeburg School District the remaining interest of the United States in this property.

Following is a letter from the Department of Agriculture indicating the approval of that Department and the Bureau of the Budget of an identical joint resolution which was introduced in the 83d Congress (H. J. Res. 564) but on which the departmental report was not received until after the convening of the 84th Congress.

JANUARY 18, 1955.

Hon. HAROLD D. COOLEY,
Chairman, Committee on Agriculture,
House of Representatives

DEAR CONGRESSMAN COOLEY: This is in response to Representative Hope's request of August 6, 1954, for a report from this Department on House Joint Resolution 564, 83d Congress, a joint resolution to release reversionary right to improvements on a 3-acre tract in Orangeburg County, S. C. Representative Riley's office recently indicated a desire that this report be submitted even though the 83d Congress has adjourned.

We recommend that the proposed legislation be enacted.

The proposed legislation would authorize and direct the Administrator of the Farmers' Home Administration, upon the written consent of the directors of the South Carolina Rural Rehabilitation Corporation, to convey by quitclaim deed to the board of trustees of Orangeburg School District No. 5 and unto its successors and assigns of said board of trustees, all the reversionary and other right, title, and interest retained by the Government in buildings and improvements and other equipment conveyed to the board of trustees of Jamison School District No. 28 by the Government's deed dated October 31, 1946, recorded in book No. 141, page 44, in the office of the clerk of the court for Orangeburg County, S. C.

The Government's right, title, and interest in the building, improvements, and equipment would be conveyed without cost to the Orangeburg School District No. 5. The Jamison School District No. 28 has been consolidated with the Orangeburg School District No. 5, and the school property conveyed by the Government's deed apparently is no longer being used for educational purposes. The Government's right, title, and interest to be conveyed under provisions of this proposed legislation consist of the right to remove a community building and water distribution system in the event the property ceases to be used for the purposes for which it was conveyed. The school district holds title to the community building which is being used for community purposes, and water from the water distribution system can apparently be obtained for use in the community building for community purposes. It is questionable, therefore, whether the reversionary right of the Government could now be exercised. The salvage value of the property involved is considered to be approximately $50 or less. The conveyance of the property as proposed by this joint resolution would appear to accomplish substantially the purposes for which the property was conveyed to the Jamison School District.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,
Under Secretary.

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Calendar No. 1733

84TH CONGRESS, 2d Session | SENATE | REPORT No. 1708

AUTHORIZING THE LOAN OF TWO SUBMARINES TO THE GOVERNMENT OF BRAZIL

MARCH 22 (legislative day, MARCH 19), 1956.—Ordered to be printed

MR. CASE of South Dakota, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 8100]

The Committee on Armed Services, to whom was referred the bill (H. R. 8100) to authorize the loan of two submarines to the Government of Brazil, having considered the same, report favorably thereon without amendment, and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to authorize the President to loan two submarines to the Government of Brazil for a period of 5 years. Discretionary power would be granted the President to extend the loan for an additional period not to exceed 5 years should the need for these vessels by the Brazilian Government still exist at the end of the first 5-year period.

ORIGIN OF THE REQUEST

The Government of Brazil has submitted a request that the Brazilian Navy be provided with two submarines to carry out its mission in the joint defense of the Western Hemisphere. The Minister of the Navy in Brazil has indicated that the need for the submarines is urgent in order that the Brazilian Navy will have the means for conducting antisubmarine warfare training. The Chief of the United States naval mission to Brazil has strongly recommended that two United States submarines be loaned in order to satisfy the need for these ships for use in training the Brazilian Navy in antisubmarine warfare tactics.

The present submarine strength of the Brazilian Navy consists of three old submarines built in Italy in 1937. Owing to age and lack of spare parts for maintenance and upkeep, the operational safety of these submarines is marginal, even at periscope depth. They are, in

fact, now obsolete and useless insofar as combat or antisubmarine warfare training is concerned.

The high cost of construction of submarines makes it prohibitive for Brazil, under existing economic conditions, to purchase ships from United States shipbuilders. The Brazilian Navy is desirous of obtaining submarines built in the United States in the interest of standardization of navy equipment.

DEFENSE RELATIONSHIP OF BRAZIL AND THE UNITED STATES

Brazil has traditionally been a close friend of the United States. She fought with us in World Wars I and II and has given every indication that this friendship and alliance will be continued. In addition to general support of the United States leadership in the free world, Brazil has ratified the Inter-American Treaty of Reciprocal Assistance, has concluded a bilateral military assistance agreement with the United States, and has strongly supported the Inter-American Defense Board and the Organization of American States. It seems reasonable to believe that if the requested submarines are made available to Brazil, they will be in the hands of an ally upon whom we can depend in the event of another emergency.

COMPOSITION AND PROBABLE FUNCTION OF BRAZILIAN NAVY

It seems likely that one of the primary missions of the Brazilian Navy will be in the field of antisubmarine warfare. Its effective strength now consists of 2 cruisers, 7 destroyers, 8 destroyer escorts, and 5 patrol craft. All these units are suitable for operations with United States naval vessels in common defense of sealanes of communication. Except for the cruisers, all these ships are antisubmarine and escort vessels. It is important to our own defense interests that these ships be well trained as effective antisubmarine warfare units.

TYPE OF SUBMARINE TO BE LOANED

The United States Navy has 24 light-hulled submarines in its reserve fleet. These submarines are no longer considered effective combatant units. If they are reactivated in a future emergency, they probably would be used for our own training purposes. It is believed that two of these submarines can be loaned to Brazil without detriment to our mobilization potential.

TERMS OF AGREEMENT TO BE CONCLUDED

If the bill becomes law, a formal agreement on the terms of the loan will be concluded by our State Department with the Brazilian Government. This agreement would be substantially similar to agreements previously concluded relative to the loan of United States ships to other friendly foreign nations. It will stipulate that the Government of Brazil will use these submarines to provide training in antisubmarine warfare and in accordance with the conditions of the mutual defense assistance agreement; that the Government of Brazil will have use of all equipment and spare parts on board the submarines at the time of delivery; that title remains in the United States and that Brazil will not relinquish possession of the submarines or their appurtenances

without consent of the United States, although the submarines may be placed under the Brazilian flag; that the United States may repossess these submarines at any time if necessary to its own defense requirements; and that at the expiration of the loan the submarines will be returned in the same condition as when loaned, except for normal depreciation. Brazil would be exempted from liability if the submarines are damaged or lost through enemy action.

COST DATA

The cost of activating these submarines and of placing them in excellent condition with a complete set of spare parts and torpedoes is estimated at approximately $1.3 million each. It is anticipated that these costs will be met as grant aid from mutual defense assistance funds. It is possible that Brazil will require continuing assistance in the maintenance of the submarines. The annual cost of such maintenance and spare parts would be approximately $37,000.

DEPARTMENTAL RECOMMENDATION

This bill is a part of the legislative program of the Department of Defense, as is indicated by the letter from the Secretary of the Navy that is printed below and hereby made a part of this report.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D. C., August 8, 1955.

Hon. SAM RAYBURN,
Speaker of the House of Representatives,
Washington, D. C.

MY DEAR MR. SPEAKER: There is forwarded herewith a draft of legislation to authorize the loan of two submarines to the Government of Brazil.

This proposal is part of the Department of Defense legislative program for 1955 and the Bureau of the Budget has advised that there would be no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The proposed legislation would authorize the President to loan 2 submarines to the Government of Brazil for a period of 5 years.

In order to carry out the mission which is envisioned in current plans, an urgent need exists for Brazil to have submarines available for training purposes. The existing submarines of the Brazilian Navy are obsolete and have deteriorated materially to the point where they are no longer safe to operate. Brazil is not capable of securing replacement submarines and has requested that United States submarines be made available.

Current plans would be furthered by the granting of this request. It is desired that the authority for the loan of the two submarines be

provided in time that the loan may be included in the fiscal year 1956 mutual defense assistance program for Brazil.

LEGISLATIVE REFERENCE

Section 4 of the act of March 10, 1951 (ch. 4, 65 Stat. 4, 34 U. S. C. 493a–1), requires the authorization of Congress before these submarines may be loaned to Brazil.

COST AND BUDGET DATA

It is estimated that the cost of activating and providing spare parts and ammunition for these submarines will be approximately $2 million. The funds required for this purpose will be allocated from appropriated mutual security funds.

Sincerely yours,

C. S. THOMAS.

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Calendar No. 1734

84TH CONGRESS, 2d Session | SENATE | REPORT No. 1709

EQUALIZING THE PAY OF RESERVISTS IN THE 6 MONTHS' TRAINING PROGRAM

MARCH 22 (legislative day, MARCH 19), 1956.—Ordered to be printed

Mrs. SMITH of Maine, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 8107]

The Committee on Armed Services, to whom was referred the bill (H. R. 8107) to amend the Armed Forces Reserve Act of 1952, as amended, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

At the end of the bill add the following new sections:

SEC. 2. The Armed Forces Reserve Act of 1952, as amended, is amended by inserting immediately after section 263 thereof the following new section:

"SEC. 264. Nothwithstanding any other provision of law, any person called or ordered to perform a period of active duty for training in excess of thirty days under authority of subsections 233 (d) or 262 (c) of this Act, shall during such period be deemed to have been called or ordered into active naval or military service by the Federal Government for extended naval or military service in excess of thirty days for the purpose of determining eligibility for any benefit prescribed under Public Law 108, Eighty-first Congress (63 Stat. 201)."

SEC. 3. This Act shall be effective from August 9, 1955: *Provided*, That no additional basic pay shall be paid to any member by reason of the enactment of this Act for any period prior to the first day of the calendar month in which this Act is approved.

EXPLANATION OF THE AMENDMENTS

The new section 2 of the bill would continue the coverage under Public Law 108, 81st Congress, that reservists undergoing 6 months

of active duty for training now have for disability or death resulting from disease. The section also would extend comparable coverage to members of the National Guard who are performing active duty for training in their Reserve component (Federal) status.

The new section 3 of the bill makes the repeal of subsection 262 (d) of the Armed Forces Reserve Act of 1952, as amended, retroactive to August 9, 1955, for all purposes except pay.

PURPOSE OF THE BILL

The principal purpose of the bill is to equalize the pay received by persons undergoing active duty for training of 6 months under the new Reserve program with the pay received by members of the National Guard who perform active duty for training.

HISTORY OF THE PROVISION TO BE REPEALED

The Reserve Forces Act of 1955 authorized new special enlistment programs in the Reserves. One of these programs, which is available to persons under the age of 18½, authorizes enlistments in the Reserve for a period of 8 years. Persons so enlisting are obligated to perform an initial period of active duty for training of not less than 3 months or more than 6 months. Subsection (d) of section 262 of the Armed Forces Reserve Act of 1952, as amended, limits the pay of persons undergoing this training to $50 per month. In contrast, other persons performing active duty for training, including members of the National Guard, receive the pay authorized for their individual grades, in any case not less than $78 per month. This disparity in pay is said to have retarded enlistments in the new Reserve program. The committee was aware that the pay inequality would exist at the time the legislation that became the Reserve Forces Act of 1955 was under consideration. At that time, the committee had the impression that the Department of Defense did not regard the disparity as objectionable.

CONTINUATION OF EXISTING COVERAGE UNDER PUBLIC LAW 108, 81ST CONGRESS

Public Law 108, 81st Congress, extends to reservists and National Guardsmen who qualify thereunder the same "pension, compensation, death gratuity, retirement pay, hospital benefits, and pay and allowances" as are authorized by law or regulation for members of the regular components. To have disability resulting from injury qualify under this law, the reservist must only be performing "active duty for training or inactive duty for training for any period of time." To have disability resulting from disease qualify under this law, the reservist must have been "called or ordered into active naval or military service * * * for extended naval or military service in excess of 30 days." It will be seen that the law differentiates both on the type of duty and the time period specified in the orders. As this law now stands, reservists performing active duty for training are not covered if they incur disease, irrespective of the duration of their orders to perform active duty for training.

Section 3 of Public Law 108 extends somewhat comparable provisions to members of the National Guard. Members of the National Guard have disease coverage "if engaged for periods in excess of 30

days in any type of training or active duty" under specified sections of the National Defense Act. These specified sections relate to State as opposed to Reserve component, or Federal, status.

To continue the protection under Public Law 108 that the reservists performing 6 months of active duty for training now have and to extend this protection to members of the National Guard who perform active duty for training in their Reserve component, or Federal, status, the committee has inserted a new section 2 in the bill.

RETROACTIVITY

The Comptroller General has held in opinion B–125760 that because of the restrictive language appearing after clause 3 of subsection 262 (d), reservists undergoing 6 months of active duty for training cannot count this time in determining eligibility for retirement and for retired pay purposes under title III, Public Law 810, 80th Congress. The opinion implies that neither would this time be counted for longevity pay purposes. This produces an incongruous result, since these reservists who enlist for a period of 8 years can count the remaining 7½ years for longevity pay and retirement purposes. This has pointed up the desirability of making the bill retroactive in effect, except for pay purposes.

It should be emphasized that the bill does not create entitlement to all benefits that flow from the performance of active duty. The training of the 6-month reservist still would be defined as "active duty for training" and, thus, would not generally form a basis for payments or benefits that accrue only in connection with the performance of extended active duty.

PROTECTION OF OTHER RESERVISTS PERFORMING ACTIVE DUTY FOR TRAINING

The committee gave some consideration to the inclusion of subsection 208 (f) of the Armed Forces Reserve Act in the new section 264 of the Armed Forces Reserve Act that is added by section 2 of the bill. Subsection 208 (f) of the Armed Forces Reserve Act imposes on members of the Ready Reserve the obligation to participate actively in the Reserve program. This obligation can be discharged by participating in 48 drills and performing not more than 17 days of active duty for training annually, or by performing not more than 30 days of active duty for training. A person who fails to pursue either course, i. e., 48 drills and not more than 17 days of training or 30 days of training, can be ordered to active duty for training for not more than 45 days. To cover both the persons performing 30 days of training and those performing 45 days of training, the necessary provisions would have departed from the pattern of the basic law (Public Law 108) by permitting benefits to accrue in the case of disability from disease when the member concerned was called or ordered to extended active duty for periods "of not less than 30 days." The Comptroller General pointed out that this would create a seemingly unwarranted discrimination in favor of reservists performing active duty for training of exactly 30 days and recommended that the operative language read "in excess of 30 days." The committee has accepted this recommendation. In order not to confer new benefits

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upon persons who had refused to participate satisfactorily and were ordered to training duty for 45 days, while denying the same benefits to persons who perform 30 days of active duty for training to discharge in good faith their obligation to participate actively, the committee has eliminated any reference to subsection 208 (f) in the new language.

COST

The estimated cost of this bill is $16 million for fiscal year 1957. Costs in subsequent years will depend upon the number of persons who volunteer for this program.

DEPARTMENTAL RECOMMENDATIONS

The bill has the endorsement of the Department of Defense and, as amended, is approved by the Comptroller General. Letters dated February 1, 1956, and February 16, 1956, from the Department of Defense and a letter dated February 24, 1956, from the Comptroller General are printed below and hereby made a part of this report.

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE,
LEGISLATIVE AND PUBLIC AFFAIRS,
Washington, D. C., February 1, 1956.

Hon. CARL VINSON,
Chairman, Committee on Armed Services,
House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your request for comments of the Department of Defense concerning H. R. 8107, a bill to amend the Armed Forces Reserve Act of 1952, as amended. This report supplements the recent testimony of the Honorable Carter L. Burgess, Assistant Secretary of Defense (Manpower, Personnel, and Reserve), before your committee.

This bill is designed to equalize the pay received by members of the Reserve performing initial active duty for training under section 262 (c) (69 Stat. 600) with that received by members of the National Guard while undergoing similar training under section 6 (c) (2) of the Universal Military Training Act, as amended (69 Stat. 603).

Under the provisions of the Armed Forces Reserve Act of 1955 a young man who enlisted in the Reserve and enters on active duty for training for 6 months receives pay at the rate of $50 per month. A National Guard man on active duty for training, on the other hand, is paid at the rates authorized by the Career Compensation Act of 1949, as amended, or a minimum of $78 per month. This bill would correct this inequity and give the Reserve entitlement to pay under the Career Compensation Act.

Under the provisions of the bill the increase in pay for members of the Reserve would begin on the effective date of the bill. It appears desirable, particularly in view of the fact that the first group is only in its fourth month of training, that the increase in pay be retroactive to bring about a complete correction of the inequity. It is so recommended.

It is suggested that consideration be given to retaining those present provisions of subsection 262 (d) which afford reservists undergoing

the 6 months' active duty for training benefits for disability or death resulting from disease. It is further suggested that consideration be given to assure that similar benefits accrue to members of the National Guard when performing active duty for training in their Reserve component status.

Subject to these comments and recommendations the Department of Defense favors enactment of the legislation.

It is estimated that the increased cost to the Department of Defense, if this bill is enacted in accordance with these recommendations, would be $2,900,000 for fiscal year 1956 and $16 million for fiscal year 1957. The estimated cost in fiscal year 1956 can probably be absorbed within the funds that have been appropriated for this year. Funds to cover the estimated increased costs for fiscal year 1957 have not been specifically requested in the fiscal year 1957 budget. However, they are included in the Department's general estimate designed to cover the cost of new legislation.

The Bureau of the Budget advises it has no objection to the submission of this report.

Sincerely yours,

RICHARD A. BUDDEKE,
Director, Legislative Programs.

ASSISTANT SECRETARY OF DEFENSE,
MANPOWER, PERSONNEL AND RESERVE,
Washington, D. C., February 16, 1956.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate.

DEAR MR. CHAIRMAN: In accordance with the request of members of the committee staff for the views of the Department of Defense on H. R. 8107, the following information is furnished to you.

As was pointed out in its formal report to the chairman of the House Armed Services Committee with respect to this bill, the Department of Defense favors the repeal of the provision that imposes a $50 a month pay rate on the reservist undergoing the initial period of active duty for training under section 262 of the Armed Forces Reserve Act of 1952, as amended. Removal of this restriction would permit such an individual to receive the pay and allowances appropriate to his grade as is the case with a member of the National Guard undergoing similar training.

The formal report from the Department of Defense concerning H. R. 8107 contained the recommendation that the increase in pay be retroactive. The significance of this consideration is heightened by a Comptroller General decision of February 1, 1956, No. B–125760 (copy attached), which precludes counting such time in determining eligibility for retirement and in the computation of retired pay. While not specifically covered by the decision, it would appear that the Comptroller General also would rule that such time may not be counted for longevity or basic pay purposes.

Your interest in giving this legislation early consideration is greatly appreciated.

Sincerely yours,

(Signed) CARTER L. BURGESS.

Enclosure: Comptroller General decision.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, February 24, 1956.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your letter of February 17, 1956, acknowledged February 20, 1956, requesting our comments on H. R. 8107 and, also, on a proposed amendment to that bill.

H. R. 8107 would amend section 262 of the Armed Forces Reserve Act of 1952, as added by subsection 2 (i) of the act of August 9, 1955, 69 Stat. 600, by deleting subsection (d) of section 262. The proposed amendment to H. R. 8107 would amend the Armed Forces Reserve Act of 1952 to provide that any person, performing a period of active duty for training of not less than 30 days under authority of subsections 208 (f), 233 (d), or 262 (c) of that act, shall be deemed during such period to have been called or ordered into active naval or military service by the Federal Government for extended naval or military service in excess of 30 days for the purpose of determining eligibility for any benefit prescribed under Public Law 108, 81st Congress (act of June 20, 1949, 63 Stat. 201).

Subsection 262 (d) of the Armed Forces Reserve Act of 1952 provided a special pay rate of $50 per month and imposed certain limitations and restrictions on the right of members of the Reserve components, enlisted under subsection (a) of that section, to other benefits while performing an initial period of active duty for training as provided by subsection (c) of the section. For example, these enlisted trainees are not entitled, during their initial period of active duty for training, to the benefits of the Armed Forces Leave Act; they may not count such initial period for purposes of the Reserve retirement law; and they are not entitled, during such period, to make an election of options under the Uniformed Services Contingency Option Act. Further, the existing restrictions and limitations in subsection 262 (d) present serious legal and administrative problems with respect to crediting such initial period of training duty for active-duty pay purposes and retired pay purposes. See our decision of February 1, 1956, B–125760, copy enclosed.

Thus, a young man who enlists in a Reserve component under section 262 of the Armed Forces Reserve Act of 1952, as amended, and enters on his initial period of active duty for training for 6 months, or less, receives pay at the rate of $50 per month during such period and is entitled only to limited military benefits. Members of the Reserve components generally, including the National Guard, while on active duty for training in the lowest enlisted grade (E–1) receive pay at the rate of $78 per month during their first 4 months of service and are not subject to such special limitations on entitlement to military benefits. One purpose of H. R. 8107 is to remove this disparity in pay and it would accomplish that purpose. Also, it would remove the present disparity regarding other benefits and permit the reservists concerned to receive such benefits where they are entitled thereto under the particular statutory provisions authorizing the benefits. The bill would not, however, generally change the nature of the initial period of training prescribed in section 262. That training still would be defined as "active duty for training" and, hence, would not, in general, form a basis for allowing payments or benefits which accrue

only in connection with extended active duty, particularly since "active duty" is differentiated from "active duty for training" in the definitions in section 101 of the Armed Forces Reserve Act of 1952.

The proposed amendment to H. R. 8107 would authorize for reservists, while performing training duty for periods of 30 days or more under sections 208 (f), 233 (d), and 262 (c) of the Armed Forces Reserve Act of 1952, as amended, the full benefit of Public Law 108. That is, it would take the benefits of that law applicable to such reservists suffering disability or death in line of duty whether the disability or death be suffered from disease or from injury. Since the benefits of Public Law 108 accrue in the case of disability from disease only when the member concerned has been called or ordered to extended active duty for periods "in excess" of 30 days, we believe the amendment should be revised to agree with the basic law (Public Law 108) and to avoid creating a seemingly unwarranted discrimination in favor of reservists performing active duty for training for exactly 30 days under the particular subsections mentioned in the amendment. We recommend that the proposed amendment of H. R. 8107 be changed to read somewhat as follows:

> SEC. 264. Notwithstanding any other provision of law, any person called or ordered to perform a period of active duty for training in excess of 30 days under authority of subsections 208 (f), 233 (d), or 262 (c) of this Act, shall during such period be deemed to have been called or ordered into active naval or military service by the Federal Government for extended naval or military service in excess of 30 days for the purpose of determining eligibility for any benefit prescribed under Public Law 108, 81st Congress (63 Stat. 201).

If subsection 262 (d) is not repealed retroactively, there will arise, in the future, certain administrative and legal problems with respect to its effect upon the rights of members who have performed active duty for training under section 262 while the restrictions of subsection 262 (d) were effective. To correct inequities and in the interest of clarity, uniformity, and simplicity in administration, we urge that the repeal of subsection 262 (d) be made retroactive to August 9, 1955, for all purposes except pay. We believe the following language, if added to H. R. 8107, will accomplish that result:

> This Act shall be effective from August 9, 1955: *Provided*, That no additional basic pay shall be paid to any member by reason of the enactment of this Act for any period prior to the first day of the calendar month in which this Act is approved.

Subject to the foregoing comments and recommendations, we favor the enactment of H. R. 8107.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

CHANGES IN EXISTING LAW

In accordance with subsection 4 of rule XXIX of the Standing Rules of the Senate, there is herewith printed in parallel columns the text of provisions of existing law which would be repealed or amended by the various provisions of the bill.

AMEND ARMED FORCES RESERVE ACT

EXISTING LAW	THE BILL
ARMED FORCES RESERVE ACT OF 1952, AS AMENDED	
Section 262 (d)	
(d) Notwithstanding any other provision of law, any person performing the period of active duty for training required by clause (1) of subsection (c) of this section shall— (1) during such period, and during any period of hospitalization incident to the performance of such duty, receive pay at the rate of $50 per month; (2) be deemed to be serving in pay grade E–1 (under four months for the purpose of determining his eligibility to receive allowances for subsistence or for travel and transportation, or to receive any benefit under title IV of the Career Compensation Act of 1949, as amended; and (3) be deemed to be a member of a reserve component called or ordered into active service for extended service in excess of thirty days for the purpose of determining eligibility for any benefit made available to members of reserve components by the Act entitled "An Act to provide for members of the reserve components of the Armed Forces who suffer disability or death from injuries incurred while engaged in active duty training for periods of less than thirty days or while engaged in active duty training"	That section 262 of the Armed Forces Reserve Act of 1952 (Public Law 476, Eighty-second Congress) is hereby amended by deleting subsection (d) thereof. SEC. 2. The Armed Forces Reserve Act of 1952, as amended, is amended by inserting immediately after section 263 thereof the following new section: "SEC. 264. Notwithstanding any other provision of law, any person called or ordered to perform a period of active duty for training in excess of thirty days under authority of subsections 233 (d) or 262 (c) of this Act, shall during such period be deemed to have been called or ordered into active naval or military service by the Federal Government for extended naval or military service in excess of thirty days for the purpose of determining eligibility for any benefit prescribed under Public Law 108, Eighty-first Congress (63 Stat. 201)." SEC. 3. This Act shall be effective from August 9, 1955: *Provided*, That no additional basic pay shall be paid to any member by reason of the enactment of this Act for any period prior to the first day of the calendar month in which this Act is approved.

EXISTING LAW

approved June 20, 1949 (63 Stat. 201), except that (A) no such person shall be entitled to any benefit under section 621 of the National Service Life Insurance Act of 1940, as amended, and (B) the indemnity accorded to such person under the Servicemen's Indemnity Act of 1951, as amended, shall terminate thirty days after the release of such person from such period of active duty for training.

Except as specifically provided by this subsection, no person shall become entitled, by reason of his performance of a period of active duty for training required by clause (1) of subsection (c) of this section, to any right, benefit, or privilege provided by law for persons who have performed active duty in the Armed Forces

THE BILL

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